

United States Court of Appeals
FOR THE EIGHTH CIRCUIT

No. 01-1516

United States of America,

Appellee,

v.

George Harper,

Appellant.

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Appeal from the United States
District Court for the Southern
District of Iowa

[UNPUBLISHED]

Submitted: November 14, 2001

Filed: December 5, 2001

Before BYE, RICHARD S. ARNOLD, and RILEY, Circuit Judges.

PER CURIAM.

The district court¹ dismissed as time-barred George Harper's initial 28 U.S.C. § 2255 motion, which sought retroactive application of Apprendi v. New Jersey, 530 U.S. 466 (2000). We subsequently determined that Apprendi may not be applied retroactively to initial § 2255 motions. United States v. Moss, 252 F.3d 993, 997 (8th

¹The Honorable Charles R. Wolle, United States District Judge for the Southern District of Iowa.

Cir. 2001); see also Murphy v. United States, 268 F.3d 599, 601 (8th Cir. 2001) (applying Moss); Jarrett v. United States, 266 F.3d 789, 791 (8th Cir. 2001) (same).

Our decision in Moss is fatal to Harper's Appendi claim. We therefore affirm the district court's dismissal of Harper's § 2255 motion.

A true copy.

Attest:

CLERK, U.S. COURT OF APPEALS, EIGHTH CIRCUIT.